

~~PROPOSED~~ ORDER/COVER SHEET

TO: Honorable James W. Ware
U.S. District Judge

RE: ZELINSKY, MARK

FROM: Claudette M. Silvera, Chief
U.S. Pretrial Services Officer

DOCKET NO.: CR 07-0614 JW

THE ATTACHED MEMORANDUM WAS PREPARED BY PRETRIAL SERVICES OFFICER:

Betty A. Kim
U.S. Pretrial Services Officer

415-436-7510
TELEPHONE NUMBER

RE: MODIFICATION OF CONDITIONS (OR INFORMATION/VIOLATION)

We are requesting direction from the Court. Please initial the appropriate box(es), and return this form to us so that we may comply with your instructions.

FILED
FEB 23 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

- ☐ I have reviewed the information that you have supplied. I do not believe that this matter requires any action by this Court at this time.
- ☐ Inform all parties concerned that I will conduct a Bail Review Hearing in Courtroom No. _____ on _____ at _____.
- ☐ Inform all parties concerned that a Bail Review Hearing will be conducted by: Magistrate Judge _____ Presiding District Court Judge _____.
- ☒ I agree with the recommendation of the Pretrial Services Officer and hereby modify the defendant's Pretrial Release conditions as indicated below:

☒ Modification(s)

A. *The defendant shall inform family members of conditions*
B. *4, 6, 7 and 8.*

- ☐ Bail Revoked/Bench Warrant Issued.
- ☐ I am returning the signed order and direct that a copy be provided to the Court file and all interested parties(AUSA and Defense Counsel).
- ☒ Other Instructions:

Continue efforts to inform family of conditions of release.

James Ware
JUDICIAL OFFICER
U.S. District Judge

FEB 22 2008
DATE

To: Honorable James W. Ware
U.S. District Judge

From: Betty A. Kim
U.S. Pretrial Services Officer

Subject: ZELINSKY, MARK
CR 07-0614 JW

Date: February 22, 2008



MEMORANDUM

Your Honor:

On October 2, 2007, Mr. Zelinsky initially appeared before the Honorable Richard Seeborg, U.S. Magistrate Judge. On that date, the defendant was charged in an Indictment with a violation of Title 18, United States Code, Section 2252(a)(4)(B)- Possession of Matters Containing Any Visual Depiction of a Minor Engaging in Sexually Explicit Conduct. On that date, the defendant was released on an unsecured bond with the following special conditions of release:

1. The defendant's travel is restricted to the Northern District of California;
2. The defendant shall report to U.S. Pretrial Services as directed;
3. The defendant shall not apply for any passports or travel documents;
4. The defendant shall submit to warrantless search and seizure of his person, residence and vehicle at the direction of U.S. Pretrial Services;
5. The defendant shall not change residence without prior approval from U.S. Pretrial Services;
6. There may only be one computer at the defendant's residence, which shall be password protected so that he cannot gain access to it;
7. The defendant shall not have any unsupervised contact with minors; and
8. The defendant shall not access the internet and shall not have any access to computers.

On December 17, 2007, Mr. Mark Zelinsky appeared before Your Honor and he entered a guilty plea as to count one on the Indictment: Possession of Matters Containing Any Visual Depiction of a Minor Engaging in Sexually Explicit Conduct. The defendant is scheduled be sentenced before Your Honor on March 24, 2008.

On February 15, 2008, Pretrial Services received a telephone call from U.S. Probation Officer (USPO) Waseem Iqbal who indicated that he spoke to the defendant's brother, Jay Zelinsky regarding the defendant. According to USPO Iqbal, Mr. Jay Zelinsky informed him that the defendant has been in the presence of his daughter without adult supervision. The defendant's brother further noted that the defendant has taken his daughter places by himself on many occasions and that he trusts the defendant wholeheartedly. Mr. Iqbal further noted that the defendant's brother is unaware of the defendant's charges and/or his conditions of release.

PAGE TWO

**MEMORANDUM FOR THE HONORABLE JAMES WARE
RE: ZELINSKY, MARK**

On February 15, 2008, the defendant and his mother reported to Pretrial Services at which time they were both queried as to Mr. Jay Zelinsky's statements. According to both the defendant and his mother, Mr. Jay Zelinsky is unaware of the defendant's charges and his conditions of release. The defendant reported that he had always taken his niece to various places by himself in the past, until he incurred the instant offense and he was ordered to refrain from being in the presence of minors without adult supervision. As such, the defendant's brother is unaware that another adult needs to be present when he is with his niece or any other minor.

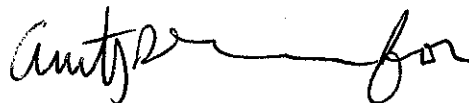
The defendant related that because his brother is unaware of his charges, he is under the assumption that he is alone with his niece. According to both the defendant and his mother, the defendant's mother is always present when the he is in the presence of his niece.

Due to possible third party risk, Pretrial Services has instructed the defendant to inform his brother of his charges and his conditions of release. Pretrial Services is concerned that Mr. Jay Zelinsky is allowing his daughter to be in the presence of the defendant when he is unaware of his charges and his restrictions.

On February 22, 2008, Pretrial Services contacted Mr. Jay Zelinsky to confirm that the defendant spoke to him regarding his charges. However, Mr. Zelinsky was unable to talk during that time and he indicated he would return the undersigned's phone call. As of this writing, Pretrial Services has not received a return call. However, Pretrial Services will continue attempting to speak to Mr. Jay Zelinsky to confirm that he was made aware of his brother's charges.

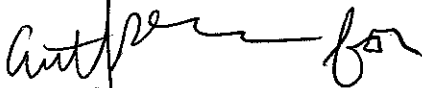
This memorandum is submitted for Your Honor's information and direction.

Respectfully Submitted,



Betty A. Kim
U.S. Pretrial Services Officer

Reviewed by:



Claudette Silvera, Chief
U.S. Pretrial Services Officer

cc: Joseph Fazioli, Assistant U.S. Attorney
Michael Nichols, Defense counsel